

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

APPLE MORTGAGE CORP.,

*Plaintiff,*

v.

RICHARD BARENBLATT, KEITH FURER  
DAVID BREITSTEIN and KEVIN UNGAR,

*Defendants.*

Civil Action No. 13 CV 9233 (JGK)

**AFFIDAVIT OF  
ERIC APPELBAUM**

STATE OF NEW YORK     )  
                                      : ss.  
COUNTY OF NEW YORK    )

ERIC APPELBAUM, being duly sworn, deposes and says:

1. I am the President of Apple Mortgage Corporation ("Apple"). I am fully familiar with the facts and circumstances recited herein.
2. I make this affidavit in support of Apple's motion for summary judgment dismissing the counterclaims brought against it by defendants Richard Barenblatt, Keith Furer, David Breitstein and Kevin Ungar ("Defendants").
3. More specifically, I make this affidavit to put before the Court certain facts concerning mortgage loans which some of the Defendants contend were closed prior to their September 3, 2013 resignation from Apple.
4. I have reviewed Apple's records and determined that the following such loans closed and funded on the dates indicated:

Borrower	Loan Originator	Closing Date	Funding Date
Iwashiro	Furer	August 26, 2013	August 30, 2013
Kennedy	Furer	August 26, 2013	August 26, 2013
Zale	Furer	August 29, 2013	September 4, 2013
Shein	Barenblatt	August 29, 2013	September 4, 2013
Smith-Williams	Barenblatt	August 30, 2013	September 5, 2013
Sirken	Ungar	August 29, 2013	September 4, 2013
Naple	Ungar	August 28, 2013	August 28, 2013

5. Where the closing date and the funding date are different, this is because those loans were refinances, in which case the borrower has a right to rescind for three business days after the closing, and such loan only funds on the fourth business day following the closing.


6. On none of the loans described in the chart above did any Defendant loan originator submit a commission calculation, a necessary pre-condition to payment of a commission to such loan originator.

7. Additionally, even had commission statements been submitted by the Defendants for these loans subsequent to closing, they would not have been entitled to receive payment of such commissions until the next payroll payment. I have reviewed Apple's payroll records and confirmed that August 30, 2013 was a payroll payment date, which means that the next date on which the Defendants could have possibly been paid commission payments for the foregoing loans would have been September 13, 2013, ten days after they resigned from Apple.

  
Eric Appelbaum

Sworn to before me this

18<sup>th</sup> day of June, 2015



Notary Public

THOMAS E. HONE  
Notary Public, State of New York  
No. 02H05022623  
Qualified in New York County  
Commission Expires Jan. 18, 2018